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September 19, 2013

Via ECF

The Honorable Pamela K. Chen
United States District Court
Eastern District of New York
Room N 631
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Phoenix Beverages, Inc. et al. v. Exxon Mobil Corp. et al.*, C.A. 12-CV-03771
(PKC) (JO); Third-Party Defendant Emhart Teknologies LLC's Request to Join
Rexam Beverage Can Company's Request for a Pre-Motion Conference

Dear Judge Chen:

Emhart Technologies LLC ("Emhart Technologies"), a Third-Party Defendant in the above-entitled matter, seeks to join in the request for a pre-motion conference made by counsel for the Third-Party Defendant Rexam Beverage Can Company ("Rexam"), pursuant to Rule 3.A of Your Honor's Individual Practices and Rules. See Documents 81 and 82. On September 10, 2013, Rexam requested a pre-motion conference on two motions pursuant to Fed. R. Civ. P. 12(b)(6): (1) a motion to dismiss Count I of the third-party complaint of Third-Party Plaintiff Exxon Mobil Corporation involving claims under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9607(a); and (2) a motion to dismiss Count I of the third-party complaint of Third-Party Plaintiff Quanta Resources Corporation involving the same claims under Section 107(a) of CERCLA. Id. Emhart Technologies also intends to file motions to dismiss these claims. Emhart Technologies refers to and incorporates into our request the summary and analysis of the basis for the anticipated motions that is set forth in the request letter to Your Honor from Rexam's counsel. Id.

On September 19, 2013, Magistrate Judge Orenstein granted Emhart Technologies' request for an extension of time to answer, move, or otherwise respond to the third-party complaints of both Third-Party Plaintiffs Exxon Mobil Corporation and Quanta Resources Corporation until November 18, 2013. If the Court denies Emhart Technologies' motions to dismiss, Emhart Technologies shall file an Answer as to all claims in the third-party complaints within fourteen days of its receipt of notice. Fed. R. Civ. P. 12(a)(4). If the Court grants Emhart Technologies' motions to dismiss, Emhart Technologies shall file an Answer as to all surviving claims in the third-party complaints that were not subject to the motion within fourteen days of its receipt of notice. Id. Accordingly, we respectfully join in Rexam's request that the Court set forth a briefing schedule for the proposed motions.

September 19, 2013

Page 2

Respectfully Submitted,



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Cc: Counsel of Record (via ECF)